

Committee Substitute for S. B. No. 182, accompanying this report, do pass in lieu therefor.

MURPHY,
HOLBROOK.

Committee Room,

Austin, Texas, Feb. 5, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 216, A bill to be entitled "An Act amending Chapter 3, of Title 49, of the Revised Civil Statutes of 1911, by adding after Article 2933 another article numbered 2933a, providing a means by which candidates may get their names on the official ballots in elections to fill vacancies in the Senate or House of Representatives of this State; and declaring an emergency."

Have had same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass.

BAILEY, Chairman.

Committee Room,

Austin, Texas, Feb. 6, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Mining and Irrigation, to whom was referred

S. B. No. 267, A bill to be entitled "An Act authorizing counties to issue bonds under Section 52 of Article 3 of the Constitution for irrigation purposes; empowering such counties to construct, purchase and acquire reservoirs, dams, levees, wells, canals, laterals, ditches, pumping plants and other improvements required for the proper and efficient irrigation of the land in such counties; to hold elections upon the question of issuing bonds and the levy of taxes for their payment; providing for the levy and collection of such taxes; providing for the control, management and operation of the irrigation system of such counties; providing for the issuance of notes by such counties for certain irrigation purposes; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back with the recommendation that it do pass.

BLEDSON, Chairman.

TWENTY-FIRST DAY.

Senate Chamber,
Austin, Texas,

Wednesday, February 7, 1923.

The Senate met at 10 o'clock a. m. pursuant to adjournment, and was called to order by Lieutenant Governor T. W. Davidson.

The roll was called, a quorum being present, the following Senators answering to their names:

Bailey.	Murphy.
Baugh.	Parr.
Bledsoe.	Pollard.
Bowers.	Rice.
Burkett.	Ridgeway.
Clark.	Strong.
Cousins.	Stuart.
Darwin.	Thomas.
Davis.	Turner.
Doyle.	Watts.
Fairchild.	Wirtz.
Floyd.	Witt.
Holbrook.	Wood.
Lewis.	Woods.
McMillin.	

Absent—Excused.

Dudley. Rogers.

Prayer by the chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Watts.

See Appendix for Petitions and Committee Reports.

Bills and Resolutions.

By Senator Woods:

S. B. No. 277, A bill to be entitled "An Act to establish a judicial council and to define its powers and duties."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Stuart:

S. B. No. 278, A bill to be entitled "An Act creating the Ninety-sixth Judicial District of Texas, and establishing a new civil district within the limits of Tarrant County, additional to the district courts now organized and operating in said county; fixing the terms of said court; defining the jurisdiction thereof; providing for the appointment of the judge thereof by the Governor until the next general election; authoriz-

ing the transfer of cases by and between the various civil district courts in said county; repealing all laws in conflict herewith; and declaring an emergency."

Read first time and referred to Committee on Judicial Districts.

By Senator Witt:

S. B. No. 279, A bill to be entitled "An Act repealing Chapter 96 of the special law passed at the Third Called Session of the Thirty-sixth Legislature of the State of Texas, and now recreating the Sharp Independent School District in Milam County, Texas, and placing said district under the General Laws governing the school districts incorporated for school purposes only under the General Laws of Texas; providing for a board of trustees; providing that this Act shall not invalidate local school taxes heretofore voted by the previously existing Common School District No. 76 of Milam County, nor of the previous Sharp Independent School District, and declaring an emergency."

Read first time and referred to the Committee on Educational Affairs.

By Senator McMillin, by request:

S. B. No. 280, A bill to be entitled "An Act making better provision for the care of delinquent and under privileged girls of Texas and to that end providing for the extension of the State Training School for Girls of Texas; to change the name of this institution to the Texas Institutions for Care of Girls; to locate the Extension Departments, provide for their construction and maintenance, to make appropriations, enact other necessary provisions incident to the subject and purpose of the Act; and declaring an emergency."

Read first time and referred to the Committee on Finance.

By Senator Parr:

S. B. No. 281, A bill to be entitled "An Act releasing the inhabitants of and the property in Hidalgo County for a period of twenty-five years from the payment of taxes levied for State purposes because of great public calamities in said county, as provided in Section 10 of Article 8 of the State Constitution, and providing that said county shall vote bonds of said county to prevent the recurrence

of such calamities, and in case of the failure of said county to vote such bonds by or before October 1, 1924, said Act shall become null and void, and said taxes collected in the usual manner and paid into the State Treasury, and providing an emergency."

Read first time and referred to Committee on Mining and Irrigation.

By Senator Clark:

S. B. No. 282, A bill to be entitled "An Act appropriating \$500,000.00 out of the State treasury to aid all the public schools for the scholastic year beginning Sept. 1, 1923, and ending August 31, 1924, and appropriating \$500,000.00 out of the State Treasury to aid all of the public schools for the year beginning September 1, 1924, and ending August 31, 1925, the same to be distributed as the available school fund is now distributed; and declaring an emergency."

Read first time and referred to Committee on Educational Affairs.

By Senator Bledsoe:

S. B. No. 283, A bill to be entitled "An Act to amend Title 84 of the Revised Civil Statutes of the State of Texas, 1911, Article 5597, Chapter 25, Section 1, Acts 1919, Regular Session, and declaring an emergency."

Read first time and referred to Committee on Criminal Jurisprudence.

By Senator Bledsoe, by request:

S. B. No. 284, A bill to be entitled "An Act to amend Title 16, Chapter 1 of the Penal Code of Texas, by inserting immediately following Article 1177, a new article to be known as Article 1177-a, providing for the protection of persons, newspapers and periodicals in the exposure of fraudulent promotion, investment, development or patent process schemes, and declaring an emergency."

Read first time and referred to Committee on Criminal Jurisprudence.

By Senator Cousins:

S. B. No. 285, A bill to be entitled "An Act amending Section 1 of Chapter 5 of the General Laws of the First Called Session of the Thirty-fifth Legislature and providing for the fixing of an indeterminate sentence upon

conviction for a felony; and providing for conditional pardon of persons convicted of felony under certain conditions."

Read first time and referred to Committee on Criminal Jurisprudence.

Simple Resolution No. 52.

By Senators Stuart, McMillin and Bledsoe:

Whereas, Former Senator R. L. Carlock is in our midst. Therefore be it

Resolved, That he be granted the privilege of the floor and that he be requested to address the Senate.

STUART.

McMILLIN.

BLEDSON.

The resolution was read and adopted.

The Chair appointed Senators Stuart, Murphy and Darwin as a committee to escort Mr. Carlock to the President's stand, where, after being presented by the Chair, he addressed the Senate.

H. B. No. 13 on Second Reading.

The Chair laid before the Senate as regular order, on its second reading.

H. B. No. 13, A bill to be entitled "An Act providing for the licensing, bonding and regulating of private employment agents; limiting the fee charged by such agents; providing for the cancellation of such license; prescribing the duties of the Commissioner of Labor Statistics for the State of Texas with reference to the enforcement of this Act; providing for recoveries on said bond; fixing penalties for the violation of this Act; creating a special fund for the enforcement of this Act and appropriating same for said purposes; repealing certain laws and all laws or parts of laws in conflict herewith, and declaring an emergency."

The bill was read second time.

Senator Ridgeway offered the following amendment to the bill:

Amend bill by inserting in line 13 on page 2 after the word "severally," the words "nor to any association or corporation chartered under the laws of Texas conducting a free employment bureau or agency."

The amendment was adopted.

Senator Witt offered the following amendment to the bill:

Amend House Bill No. 13, page 2, line 13, after the word "severally," and before amendment No. 1 of the printed bill, the following: "In securing laborers for their own use where no fee is collected or charged directly or indirectly."

The amendment was adopted.

Senator Witt offered the following amendment to the bill:

Amend House Bill No. 13, by adding to Section 22 the following: "Any employment agent who shall violate the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than fifty (\$50.00) dollars, nor more than two hundred and fifty (\$250.00) dollars, or by imprisonment in the county jail for any period of time not to exceed one year, or by both such fine and imprisonment."

The amendment was adopted.

Senator Wood offered the following amendment to the bill:

Amend H. B. No. 13, page 2, line 5, by adding after the word "agents" the following: "who charge a fee of not more than two dollars (\$2.00) for registration only, for".

The amendment was adopted.

Senator Floyd moved to postpone further consideration of the bill until next Friday at 11 a. m. and that it be made a special order for that hour.

Senator Bowers moved to postpone further consideration of the bill indefinitely.

Yeas and nays were demanded and the motion to postpone indefinitely was lost by the following vote:

Yeas—11.

Bailey.	McMillin.
Baugh.	Parr.
Bledsoe.	Rice.
Bowers.	Ridgeway.
Davis.	Watts.
Lewis.	

Nays—18.

Burkett.	Pollard.
Clark.	Strong.
Cousins.	Stuart.
Darwin.	Thomas.
Doyle.	Turner.
Fairchild.	Wirtz.
Floyd.	Witt.
Holbrook.	Wood.
Murphy.	Woods.

Absent—Excused.

Dudley.	Rogers.
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Question recurring on the motion to make the bill a special order for 11 a. m. next Friday, the motion prevailed.

S. B. No. 60.—Motion to Pass Over Governor's Veto.

Senator Bledsoe called up from the President's table S. B. No. 60, creating the Ninety-second Judicial District, and moved that the bill be reconsidered and passed, notwithstanding the Governor's veto.

The Chair laid the bill before the Senate, and the motion to reconsider and pass the bill finally, notwithstanding the Governor's veto, was lost by the following vote, not receiving the necessary two-thirds majority.

Yeas—15.

Bledsoe.	Rice.
Bowers.	Ridgeway.
Burkett.	Strong.
Darwin.	Stuart.
Davis.	Thomas.
McMillin.	Witt.
Parr.	Wood.
Pollard.	

Nays—12.

Bailey.	Lewis.
Clark.	Murphy.
Cousins.	Turner.
Doyle.	Watts.
Fairchild.	Wirtz.
Holbrook.	Woods.

Present—Not Voting.

Floyd.

Absent.

Baugh.

Absent—Excused.

Dudley.

Rogers.

H. B. No. 29 on Second Reading.

The Chair laid before the Senate as regular order, on its second reading.

H. B. No. 29, A bill to be entitled "An Act to amend Article 2, Title 1, of the Revised Civil Statutes of the State of Texas, 1911, relating to the adoption of heirs, so as to permit the adoption of minors only as legal heirs, and defining and designating the rights, privileges, and inheritances of heirs by adoption, and declaring an emergency."

The bill was read second time.

Yeas and nays were demanded, and the bill failed to pass to third reading by the following vote:

Yeas—13.

Bledsoe.	Pollard.
Burkett.	Ridgeway.
Cousins.	Thomas.
Darwin.	Wirtz.
Fairchild.	Witt.
Holbrook.	Wood.
Murphy.	

Nays—15.

Baugh.	Parr.
Bowers.	Rice.
Clark.	Strong.
Davis.	Stuart.
Doyle.	Turner.
Floyd.	Watts.
Lewis.	Woods.
McMillin.	

Absent.

Bailey.

Absent—Excused.

Dudley.

Rogers.

H. B. No. 52 on Second Reading.

The Chair laid before the Senate as regular order, on its second reading,

H. B. No. 52, A bill to be entitled "An Act relating to the jurisdiction of the County Court of Reagan County, conferring upon said court civil and criminal jurisdiction and increasing the civil jurisdiction of said court; conforming the jurisdiction of the District Court of said county to such charge; and declaring an emergency."

The bill was read second time, and was passed to third reading.

H. B. No. 131 on Second Reading.

The Chair laid before the Senate as regular order, on its second reading,

H. B. No. 131, A bill to be entitled "An Act to amend Article 2643, of Chapter 2, Title 48, Revised Civil Statutes of Texas, 1911, providing that the Board of Regents of the University of Texas, when authorized by specific legislation, may expend the interest of the permanent University fund for permanent improvements; providing that any contract made in any manner or for any purpose as in said Article 2643 specified shall be null and void, and declaring an emergency."

The bill was read second time.

Senator McMillin moved to adopt the report of the committee carrying the following amendments:

Amendment No. 1.

"Amend H. B. No. 131 by striking out all of Section One after the word 'follows' and by inserting in lieu thereof the following:

"Article 2645. The Board of Regents of the University of Texas shall expend the interest which has heretofore accrued and may hereafter accrue on the Permanent University Fund and the income of said fund and land resulting from their use, including the proceeds from grazing leases, for permanent improvements to be erected on the campus of the University of Texas or at any of the branches of the University, and the Board of Regents may pledge said interest and income for a term of not exceeding fifteen years to make said funds immediately available. Any contract for the expenditure of said interest and income for any other purpose shall be void."

Amendment No. 2.

"Amend H. B. No. 131 by changing the section number of Section 'Two' to Section 'Three' and insert following Section 'One' a new section to be designated Section Two, as follows:

"All laws and parts of laws in conflict herewith are hereby expressly repealed."

Amendment No. 3.

"Amend H. B. No. 131 by changing the caption to conform to the foregoing amendments so that hereafter it shall read as follows:

"An Act to amend Article 2643, Revised Civil Statutes of Texas of 1911, setting aside the interest and income from the University Permanent Fund and lands for the purpose of constructing permanent improvements on the campus of the University or at its branches, declaring void any contract for the expenditure of said funds for any other purpose, repealing all laws in conflict herewith, and declaring an emergency."

Senator Baugh offered the following amendment to the committee amendments:

Amend H. B. No. 13, page 3, line 6, Committee Amendment No. 1, by

striking out the word "fifteen" and insert in lieu thereof the word "two."

Senator Pollard moved to table the amendment to the committee amendments.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—22.

Bailey.	Parr.
Bowers.	Pollard.
Cousins.	Ridgeway.
Darwin.	Strong.
Davis.	Stuart.
Doyle.	Turner.
Fairchild.	Watts.
Floyd.	Wirtz.
Holbrook.	Witt.
McMillin.	Wood.
Murphy.	Woods.

Nays—7.

Baugh.	Lewis.
Bledsoe.	Rice.
Burkett.	Thomas.
Clark.	

Absent—Excused.

Dudley. Rogers.

Question then recurring on the committee report carrying amendments, it was adopted.

Senator Stuart offered the following amendment, to the bill:

Amend H. B. No. 131 by adding thereto immediately after the last paragraph thereof, the provision that no lease of said land shall be made for a period of more than two years during the fifteen year period, provided for in said bill.

Senator Bowers raised the point of order that the amendment was not germane to the purpose of the bill.

The point of order was overruled.

Question: Shall the amendment be adopted?

Simple Resolution No. 53.

(By unanimous consent.)

By Senators Floyd and Cousins:

Whereas, There are a number of representatives of the press of Texas now in the city, therefore be it

Resolved, That they be accorded the privilege of the Senate floor while they are in the city.

The resolution was read and adopted.

Recess.

On motion of Senator Fairchild, the Senate at 12:10 p. m. recessed until 3 p. m. today.

Afternoon Session

The Senate met at 3 p. m. and was called to order by Lieutenant Governor T. W. Davidson.

H. B. No. 131 on Engrossment.

The Senate resumed consideration of H. B. No. 131, with amendment by Senator Stuart, pending.

Senator Stuart offered the following substitute for the amendment:

Amend H. B. No. 131 by adding thereto, immediately after the last paragraph thereof, the provision that no lease of said land shall be made for a period of more than four years during the fifteen year period, provided for in said bill.

The substitute for the amendment was adopted by unanimous consent, and the amendment as substituted was adopted.

Senator McMillin offered the following amendment to the bill:

Amend H. B. No. 31, as amended, page 3, line 6, Amendment No. 1, by striking out the word "fifteen" and insert in lieu thereof the word "four."

(Senator Darwin in the Chair.)

Senator Bailey moved that further consideration of the bill and the amendment be postponed until next Monday after the morning call, and that the bill be made a special order for that hour, and the motion prevailed.

(Lieutenant Governor Davidson in the Chair.)

S. B. No. 278 Ordered Printed in the Journal.

Senator Stuart moved to suspend the regular order of business and take up S. B. No. 278.

The motion prevailed by the following vote:

Yeas—21.

Baugh.	Pollard.
Bledsoe.	Rice.
Bowers.	Ridgeway.
Burkett.	Strong.
Clark.	Stuart.
Davis.	Thomas.
Fairchild.	Turner.
Floyd.	Watts.
Lewis.	Witt.
McMillin.	Wood.
Parr.	

Nays—5.

Bailey.	Murphy.
Cousins.	Wirtz.
Holbrook.	

Absent.

Darwin.	Woods.
Doyle.	

Absent—Excused.

Dudley.	Rogers.
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On motion of Senator Stuart, the bill was ordered printed in the Journal.

H. B. No. 29, Vote Reconsidered.

Senator Davis moved to reconsider the vote by which the Senate on this morning refused to pass H. B. No. 29 to third reading, and the motion prevailed.

On motion of Senator Davis, the bill was laid on the table subject to call.

S. B. No. 184 Recommitted.

On motion of Senator Ridgeway, S. B. No. 184 was recommitted to the Committee on Towns and City Corporations.

S. B. No. 173 Recommitted.

On motion of Senator Strong, S. B. No. 173 was recommitted to the Committee on Commerce and Manufactures.

S. B. No. 240 Rereferred.

On motion of Senator Fairchild, S. B. No. 240 was withdrawn from the Committee on Criminal Jurisprudence and referred to the Committee on Civil Jurisprudence.

H. B. No. 146 on Second Reading.

The Chair laid before the Senate, as regular order, on its second reading,

H. B. No. 146, A bill to be entitled "An Act to amend Article 6319, Sections 1, 2, 3, 4 and 5, Chapter 3, Title 107, General Laws of Texas, Acts of the Thirty-sixth Legislature, Fourth Called Session, 1920, substituting said sections and adding new sections: creating pilot boards in navigation districts containing cities of 100,000 population or more, and owning, operating, or controlling docks, wharves or other facilities for utilizing navigable streams therein; giving exclusive jurisdiction to such navigation districts over pilotage of vessels between the Gulf of Mexico and their respective ports; power of navigation and canal commissions constituting such pilot boards to appoint branch pilots, suspend or dismiss branch pilots or deputies, and to adopt rules and regulations for such; providing for bonds of branch pilots and issuance of commissions to them by the Governor; providing reasonable rates for pilotage; defining duties, rights and privileges of branch pilots, and the responsibilities of vessels and consignees to them; disqualifying persons for membership on pilot boards who are interested in any business affected by such position; repealing all laws and parts of laws in conflict with this Act to the extent of such conflict, and declaring an emergency."

The bill was read second time, and passed to third reading.

H. B. No. 173 on Second Reading.

The Chair laid before the Senate, as regular order, on its second reading,

H. B. No. 173, A bill to be entitled "An Act amending Section 1, Chapter 27, page 38, Acts of the Regular Session, Thirty-second Legislature of the State of Texas of 1911, and being Article 7059a of Title 120 of the Revised Statutes of Texas, relating to traveling and other expenses of judges of the district courts and district attorneys when in the actual discharge of their official duties in any county other than the county of their residence; providing for the payment of such expenses by the

State upon sworn itemized accounts of such officers; providing for recording such accounts in the minutes of the district court of the county in which such officer resides, and declaring an emergency."

The bill was read second time.

Senator Thomas offered the following amendment to the bill:

Amend H. B. No. 173, Sec. 1, page 2, beginning at the end of line 24, and add the following: "Provided, further, that in districts containing two counties the expenses herein allowed shall never exceed \$200 per annum; in districts containing three counties, the expenses herein allowed shall never exceed \$300 per annum; in districts containing four counties the expenses herein allowed shall never exceed \$400 per annum; in districts containing five counties, the expense herein allowed shall never exceed \$500 per annum; and in districts containing six counties the expenses herein allowed shall never exceed \$600 per annum.

The amendment was adopted.

Question recurred on the passage of the bill to the third reading.

Yeas and nays were demanded and the bill was passed to third reading by the following vote:

Yeas—21.

Bailey.	Murphy.
Baugh.	Parr.
Bledsoe.	Pollard.
Burkett.	Rice.
Clark.	Ridgeway.
Cousins.	Strong.
Davis.	Thomas.
Fairchild.	Turner.
Holbrook.	Wirtz.
Lewis.	Wood.
McMillin.	

Nays—6.

Bowers.	Floyd.
Darwin.	Watts.
Doyle.	Witt.

Absent.

Stuart.	Woods.
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Absent—Excused.

Dudley.	Rogers.
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S. B. No. 130 on Engrossment.

Senator Doyle called up S. B. No. 130, relating to time of holding court in the Seventy-seventh Judicial Dis-

trict, which was read second time on January 29, and laid on the table subject to call.

The Chair laid the bill before the Senate.

Senator Doyle offered the following amendment to the bill:

Amend S. B. No. 130, page 2, line 6, of the printed Senate Bill, by adding thereafter the word "districts."

"Provided that the office of district attorney of said Seventy-seventh Judicial District shall be abolished on and after January 1, 1925, and that the duties enjoined by law upon district attorneys shall thereafter be performed in said district by the county attorneys of the respective counties in said district, and that such county attorneys shall receive for their services the same compensation and fees of office as are or may be provided by law for district attorneys in districts composed of one county."

The amendment was adopted.

Senator Doyle offered the following amendment to the bill:

Amend the caption to S. B. No. 130, page 1, line 20 of the printed Senate Bill by adding after the word "districts," the following:

"And providing that the office of district attorney of said Seventy-seventh Judicial District shall be abolished on and after January 1, 1925, and the duties enjoined by law upon district attorneys shall hereafter be performed by the county attorneys of the respective counties in said district, and that such county attorneys shall receive for such service the same compensation and fees of office as are now or may be provided by law for district attorneys in districts composed of one county."

The amendment was adopted.

S. B. No. 130 was then passed to engrossment.

S. B. No. 118 on Third Reading.

The Chair laid before the Senate, as regular order, on its third reading,

S. B. No. 118, A bill to be entitled "An Act to amend Article 1620 of the Revised Civil Statutes of Texas."

The bill was read third time.

Senator Davis offered the following amendment to the bill:

Amend caption S. B. No. 118, page 1, line 7, by changing period after

word "Texas" to comma, and add following: "provided that Courts of Civil Appeals may also upon motion of any party to a cause certify point or points of dissent to Supreme Court even though case may be appealed from county courts as well as to cases appealed from district courts."

The amendment was adopted.

S. B. No. 118 was finally passed.

S. B. No. 143 on Third Reading.

The Chair laid before the Senate as regular order, on its third reading,

S. B. No. 143, A bill to be entitled "An Act to amend Chapter 32 of the First Called Session of the Thirty-third Legislature of the State of Texas, entitled 'An Act to regulate and supervise the sale and purchase in this State of stocks of private, foreign and domestic corporations being organized, and hereafter organized, or proposed to be organized for profit; and to regulate and supervise the offering or contracting for sale or purchase of stock of such corporation, or proposed corporations, and to fix commission and promotion fees allowed to be charged and providing for service of process, examination fees, and exempting certain corporations from the effect of this Act, providing penalties for the violation of the provisions of this Act, and declaring an emergency,' by adding thereto Section 4-a providing that the terms and provisions of this Act shall not apply to any public service corporation doing business under the laws of this State, whose rates or charges are fixed or regulated by law or by any governmental agency of this State."

The bill was read third time and passed.

S. B. No. 115 on Third Reading.

The Chair laid before the Senate as regular order, on its third reading and final passage,

S. B. No. 115, A bill to be entitled "An Act to amend Article 1591 of the 1911 Revised Civil Statutes of Texas."

The bill was read third time and passed.

S. B. No. 136 on Third Reading.

The Chair laid before the Senate as regular order, on its third reading and final passage,

S. B. No. 136, A bill to be entitled "An Act amending Article 2939 of Chapter 4, of Title 49, of the Revised Civil Statutes of the State of Texas of 1911, as amended by Chapter 40 of the General Laws of the First Called Session of the Thirty-fifth Legislature, as amended by Chapter 6 of the General Laws of the Fourth Called Session of the Thirty-sixth Legislature, as amended by the General Laws of the Thirty-seventh Legislature, Regular Session, Chapter 113, and approved by the Governor on the 12th day of March, A. D. 1921, regulating elections, providing certain qualifications for voters and providing for absentee voting in order that voters may vote who are absent from the State, and declaring an emergency."

The bill was read third time and passed.

S. B. No. 169 on Third Reading.

The Chair laid before the Senate as regular order, on its third reading and final passage,

S. B. No. 169, A bill to be entitled "An Act permitting building and loan associations organized under Chapter 33 of the First Called Session of the Thirty-third Legislature to use the word 'Savings' in their corporate names and advertising."

The bill was read third time.

Senator Bowers offered the following amendment to the bill:

Amend Senate Bill No. 169, page 1, line 15, by striking out the words, "and advertising."

The amendment was adopted.

Senator Bowers offered the following amendment to the bill:

Amend caption of Senate Bill No. 169, page 1, lines 9 and 10, by striking out the words, "and advertising."

The amendment was adopted.

S. B. No. 169 was finally passed.

S. B. No. 117 on Third Reading.

The Chair laid before the Senate as regular order, on its third reading and final passage,

S. B. No. 117, A bill to be entitled "An Act to amend Article 1623 of the Revised Civil Statutes of Texas."

The bill was read third time and passed.

S. B. No. 163 on Third Reading.

The Chair laid before the Senate as regular order, on its third reading and final passage,

S. B. No. 163, A bill to be entitled "An Act making it unlawful for the Commissioners' Court of any county to issue warrants, or other certificates of indebtedness, in any form, to be paid at some future date, and promising and pledging the Road and Bridge Fund of the county for the final payment and redemption of said warrants, and declaring an emergency."

The bill was third time and passed.

Message From the House.

Hall of the House of Representatives,
Austin, Texas, Feb. 7, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 170, A bill to be entitled "An Act to abolish the Higgins Independent School District, created under the General Laws of the State of Texas, and to incorporate the Higgins Independent School District to be within certain boundaries at and surrounding the town of Higgins, in Lipscomb county, with all powers, rights and privileges of independent school districts; to elect trustees, issue bonds, and declaring an emergency."

Respectfully submitted,

C. L. PHINNEY,
Chief Clerk, House of Representatives.

Adjournment.

On motion of Senator Cousins, the Senate at 4:50 p. m. adjourned until 10 o'clock a. m. tomorrow.

APPENDIX.

Petitions and Memorials.

Lieutenant Governor Davidson presented and had read two telegrams from traveling tent show companies, protesting against proposed tax on such shows.

Also a petition from National Association of Railway and Utilities Commissioners held in Detroit, Michigan, urging the Legislature to con-

sider the question of "indeterminate permit" in enacting any utilities measures.

Senator Doyle offered a petition, sent in from Thornton, Limestone county, signed by 150 tax payers, protesting against tax measures now being considered by the Legislature.

A memorial, signed by numerous Fairfield citizens, was also offered and read. This memorial urged support of House Bill No. 226, bill designed to help enforce the prohibition law.

Senator Holbrook offered and had read a letter from County Supt. of Schools of Wharton County, Elizabeth McIvor, urging passage of measure appropriating three million dollars for public schools.

Committee Reports.

Senate Chamber,
Austin, Texas, Feb. 6, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 117 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,
Austin, Texas, Feb. 6, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 163 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,
Austin, Texas, Feb. 6, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 115 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,
Austin, Texas, Feb. 6, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 151 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,
Austin, Texas, Feb. 6, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 136 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,
Austin, Texas, Feb. 6, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 169 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,
Austin, Texas, Feb. 6, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 143 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Senate Chamber,
Austin, Texas, Feb. 7, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 61 carefully compared and find same to be correctly engrossed.

DOYLE, Chairman.

Committee Room,
Austin, Texas, Feb. 6, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Enrolled Bills have carefully compared Senate Bill No. 103, and find the same correctly enrolled and have this day at 5:45 o'clock p. m. presented the same to the Governor for his approval.

DARWIN, Chairman.

Committee Room,
Austin, Texas, Feb. 7, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Labor, to whom was referred

S. B. No. 59, A bill to be entitled "An Act regulating the employment of women and minors and establishing a Minimum Wage Commission to investigate and deal with such employment, including the fixing of a minimum wage; providing for the

manner of selecting and employment of said commission, fixing the membership of said commission and its compensation and duties, and the term of office of its members; providing for the creation of wage boards and fixing the duties thereof; providing for an appropriation therefor, and fixing penalties for the violation thereof, and declaring an emergency."

Have had same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass.

MURPHY, Chairman.

Committee Room,

Austin, Texas, Jan. 31, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred,

S. B. No. 187, A bill to be entitled "An Act defining and regulating the business of dry cleaning and dyeing, and providing for the construction, maintenance and inspection of the State of dry cleaning and dyeing buildings and establishments, and providing ways and means for enforcing this Act, and penalties for the violation thereof, and declaring an emergency."

Have had same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

TURNER, Chairman.

Committee Room,

Austin, Texas, Feb. 7, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Judicial Districts, to whom was referred

S. B. No. 262, A bill to be entitled "An Act to amend an Act to reorganize the Thirty-fifth and Twenty-seventh Judicial Districts of Texas passed by the Twenty-ninth Legislature, Chapter 37, as amended by the Second Called Session of the Thirty-first Legislature, Chapter 3; as further amended by the Regular Session of the Thirty-third Legislature, Chapter 61; and as further amended by the Acts of the Regular Session of the Thirty-seventh Legislature, Chapter 31, page 75; and to reorganize the Thirty-fifth Judicial District of Texas, to name the counties composing said Thirty-fifth Ju-

dicial District, to fix the time of holding court in the counties composing said Thirty-fifth Judicial District, to provide for the extension and return of process issued out of said courts; and to repeal all laws and parts of laws in conflict herewith, and declaring an emergency."

Have had same under consideration, and beg to report it back to the Senate with the recommendation that it do pass, and, being a local bill, that it be not printed.

POLLARD, Chairman.

Committee Room,

Austin, Texas, Feb. 7, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Internal Improvements, to whom was referred

S. B. No. 54, A bill to be entitled "An Act to authorize and empower The Beaumont and Great Northern Railroad to acquire, own, maintain and operate, all that certain railroad heretofore owned and operated by the Missouri, Kansas & Texas Railway Company of Texas, which railroad begins at a point in the town of Trinity, in Trinity County, Texas, and extends thence in an easterly direction through and across the counties, or parts of the counties of Trinity, Polk and Tyler, to a point in the town of Colmesneil, in Tyler County, Texas, etc., and declaring an emergency."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

FAIRCHILD, Chairman.

(Floor Report.)

Senate Chamber,

Austin, Texas, Feb. 7, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Judicial Districts, to whom was referred S. B. No. 278, have had same under consideration, and we are instructed to report it back with the recommendation that it do pass, and, it being a local bill, that it be not printed.

Pollard, Chairman; Bowers, Wirtz, Stuart, Doyle, Davis, Fairchild.

Committee Room,
Austin, Texas, Feb. 7, 1923.
Hon. T. W. Davidson, President of
the Senate.

Sir: We, your Committee on Federal Relations, to whom was referred H. C. R. No. 13, have had same under consideration, and I am instructed to report it back with the recommendation that it do pass.

STUART, Chairman.

Committee Room,
Austin, Texas, Feb. 6, 1923.
Hon. T. W. Davidson, President of
the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 182, A bill to be entitled "An Act authorizing and directing the administrative or governing authorities of the public educational institutions of this State to except and exempt from the payment of all dues, fees and charges except for board and clothing all citizens of Texas who served as nurses or in the armed forces of the United States during the late war, and giving said citizens a preferential right to be admitted to the benefits of said institutions and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

WOOD, Chairman.

Committee Room,
Austin, Texas, Feb. 6, 1923.
Hon. T. W. Davidson, President of
the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 169, A bill to be entitled "An Act amending Section 3 of an Act passed at the Regular Session of the Thirty-sixth Legislature of the State of Texas, entitled 'An Act to provide for the purchase and distribution by the State of free text books to the public school children of the State of Texas, etc., being Senate Bill No. 118, Chapter 29 of said Regular Session Laws, repealing all laws in conflict herewith, and declaring an emergency.'"

Have had the same under consideration, and I am instructed to re-

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port the same back to the Senate with the recommendation that it do pass.

WOOD, Chairman.

Committee Room,
Austin, Texas, Feb. 6, 1923.
Hon. T. W. Davidson, President of
the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred S. B. No. 251, A bill to be entitled "An Act to amend Article 2904, Revised Statutes 1911, forbidding trustees and teachers to be interested in the sale of textbooks and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

WOOD, Chairman.

Committee Room,
Austin, Texas, Feb. 6, 1923.
Hon. T. W. Davidson, President of
the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred S. B. No. 249, A bill to be entitled "An Act to provide for the issuance of serial coupon bonds for the purpose of constructing teachers' homes and purchasing land in connection therewith, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

WOOD, Chairman.

Committee Room,
Austin, Texas, Feb. 6, 1923.
Hon. T. W. Davidson, President of
the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred S. B. No. 248, A bill to be entitled "An Act to require a record kept and report made of attendance of teachers at summer normals and county institutes and providing full pay for attendance upon teachers' institutes."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

WOOD, Chairman.

Committee Room,
Austin, Texas, Feb. 6, 1923.
Hon. T. W. Davidson, President of
the Senate.

Sir: We, your Committee on Edu-

cational Affairs, to whom was referred S. B. No. 246, A bill to be entitled "An Act to amend Chapter 36, Section 1, Acts of the Thirty-sixth Legislature, providing for emergency transfer of school children, and declaring an emergency."

Have had the same under consideration, and I am instructed by the Committee to report the same back to the Senate with the recommendation that it do pass.

WOOD, Chairman.

Committee Room,

Austin, Texas, Feb. 6, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 255, A bill to be entitled "An Act creating and incorporating the Sligo Independent School District in Yoakum county, Texas; defining the boundaries thereof; providing for a board of trustees, their election, terms of office, qualifications, powers, duties and authority; authorizing the board of trustees to levy, assess and collect taxes for maintenance and building puposes, and to issue bonds; providing for a collector and assessor of taxes and a board of equalization; providing that said Sligo Independent School District shall assume and discharge any bonds and indebtedness that may be valid and binding obligations of the common school district including all or part of the territory embraced within the boundaries of the Independent District as created by this Act; validating and continuing in force any and all taxes heretofore voted and now in force in such common school district, and providing that title to any and all property of such common school district shall vest in the trustees of the Independent School District hereby created; providing for filling vacancies on the board of trustees; providing for a seal for said District; providing that the board of trustees shall be governed by the General Laws of Texas in all matters where this Act is silent; repealing all laws in conflict herewith; providing that invalidation by the courts of any section or provision of this Act shall not invalidate any remaining provisions of this Act, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the

recommendation that it do pass, and, being a local bill, that it be not printed.

WOOD, Chairman.

Committee Room,

Austin, Texas, Feb. 6, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 306, A bill to be entitled "An Act to authorize, enable and permit the territory situated within the bounds of the Eagle Pass Independent School District in the county of Maverick and State of Texas, and other lands and territory adjacent thereto in Maverick County, to incorporate as an independent district for free school purposes only, to be hereafter known as the Eagle Pass Independent School District, with all the powers, privileges and duties of independent school districts formed by incorporation or territory for free school purposes only and to provide for an election on the question of divesting the old Eagle Pass Independent School District of control of its public school and title to school properties, and vesting the same in the new Eagle Pass Independent School District and its board of trustees; providing for a board of school trustees for the control and management of said independent school district; providing that all funds held for public school purposes and to be used in the territory included in the new district shall be turned over to the trustees of the new district as herein provided may be created; provided that any outstanding bonds or indebtedness of the old district may, upon an election being held in the new district, be paid by a tax levied in the new district, provided other incidental provisions and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass and, being a local bill, that it be not printed.

WOOD, Chairman.

Committee Room,

Austin, Texas, Feb. 6, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Edu-

cational Affairs, to whom was referred

H. B. No. 251, A bill to be entitled "An Act creating and incorporating the Meadow Independent School District in Terry County, Texas; defining the boundaries thereof; providing for a board of trustees, their election, terms of office, qualifications, powers, duties and authority; authorizing the board of trustees to levy, assess and collect taxes for maintenance and building purposes, and to issue bonds; providing for a collector and assessor of taxes and a board of equalization; providing the said Meadow Independent School District shall assume and discharge any bonds and indebtedness that may be valid and binding obligations of the common school district, including all or a part of the territory embraced within the boundaries of the independent district as created by this Act; validating and continuing in force any and all taxes heretofore voted and now in force in such common school district, and providing that title to any and all property of such common school district shall vest in the trustees of the independent school district hereby created; providing for filling vacancies on the board of trustees; providing for a seal for said district; providing that the board of trustees shall be governed by the General Laws of Texas in all matters where this Act is silent; repealing all laws in conflict herewith; providing that invalidation by the courts of any section or provision of this Act shall not invalidate any remaining provisions of this Act, and declaring an emergency."

Have had the same under consideration, and I am instructed by the Committee to report the same back to the Senate with the recommendation that it do pass and, being a local bill, that it be not printed.

WOOD, Chairman.

Committee Room,

Austin, Texas, Feb. 6, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 307, A bill to be entitled "An Act creating the Brackett Independent School District in Kinney County, Texas; defining its bounda-

ries, including the present Brackett Independent School District; providing for a board of trustees in said district, conferring upon said district and its board of trustees all the rights, powers, privileges and duties now conferred and imposed by the General Laws upon the independent school districts and the boards of trustees thereof; providing that the present board of trustees shall continue in office until the expiration of their respective terms and validating their elections; providing that outstanding bonds shall remain chargeable against the territory which voted same; providing for an election for the purpose of assuming said bonded indebtedness by the district as herein created; providing for the appointment of an assessor and collector and board of equalization for said district; and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass and, being a local bill, that it be not printed.

WOOD, Chairman.

Committee Room,

Austin, Texas, Feb. 6, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 58, A bill to be entitled "An Act creating the Krum Independent School District of Denton County, by adding to and making a part of what is known as the Krum Independent School District of Denton County, certain lands and territory adjoining thereto and situated in Denton County for school purposes only; providing for a board of trustees, giving said board of trustees of said independent district power and jurisdiction over said land and territory and the inhabitants thereof; placing said Krum Independent School District under the general statutes, except as herein expressly provided otherwise; and declaring an emergency."

Have had the same under consideration, and I am instructed by the Committee to report the same back to the Senate with the recommenda-

tion that it do pass and, being a local bill, that it be not printed.

WOOD, Chairman.

Committee Room.

Austin, Texas, Feb. 6, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 380, A bill to be entitled "An Act creating and establishing a common school district to be known as Common County Line School District No. 49, composed of parts of Fannin and Hunt Counties, defining the powers of such district, prescribing the powers of the county board of school trustees in relation thereto, and declaring an emergency."

Have had the same under consideration, and I am instructed by the Committee to report the same back to the Senate with the recommendation that it do pass and, being a local bill, that it be not printed.

WOOD, Chairman.

Committee Room.

Austin, Texas, Feb. 6, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

S. B. No. 247, A bill to be entitled "An Act to amend Article 2760, Revised Statutes, 1911, authorizing the transfer of school children and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back with the recommendation that it do pass, with the following Committee Amendment:

Amend Senate Bill No. 247, by striking out the period at the end of Section 1, and adding the following:

"From districts lying wholly within one county, but it shall be mandatory on county superintendents to grant applications for transfers from county line districts."

WOOD, Chairman.

Committee Room.

Austin, Texas, Feb. 6, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 94, A bill to be entitled "An Act appropriating Five Million

Dollars (\$5,000,000.00) out of the State Treasury to aid all the public schools for the scholastic year beginning September 1, 1923, and ending August 31, 1925, the same to be distributed as the available school fund is now distributed; and declaring an emergency."

Have had the same under consideration, and I am instructed by the Committee to report the same back to the Senate with the recommendation that it do not pass.

WOOD, Vice Chairman.

Committee Room,

Austin, Texas, Feb. 7, 1923.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 135, A bill to be entitled "An Act making appropriations to cover deficiencies in appropriations heretofore made for the support of the State Government for the fiscal year ending August 31, 1922, and declaring an emergency."

Have had the same under consideration, and I am instructed by the Committee to report the same back to the Senate with the recommendation that it do pass and be not printed.

WOOD, Vice Chairman.

Attorney General's Opinion on H. B. No. 168.

By Senator Wood:

Austin, Texas, Feb. 6, 1923.

Hon. A. E. Wood, State Senator, Senate Chamber, Capitol.

Dear Sir: Attorney General Keeling is in receipt of your communication of the 6th instant, reading as follows:

"House Bill No. 168 by Pope has passed the House and has been engrossed by the Senate. This bill is commonly known as the "Pope Textbook Bill" and has for its purpose, among other things, the nullifying of the recent contracts made by the Textbook Commission. I herewith hand you a copy of this bill in order that you might know its provisions in giving me the following information:

"(1) If this bill should be passed by the Senate and approved by the Governor, would it have the effect of nullifying the recent contracts made by the Textbook Commission?"

"(2). If this bill should pass and become a law, please give me the situation we would be in with reference to providing free textbooks for the school children of Texas.

"(3). If the passing of this bill should nullify the recent contracts made by the Textbook Commission and if the books in use on December 1st, 1922, could not be had at or under the contract price at that time, how would the State provide free textbooks for the school children?

"(4) If it did not have the effect of nullifying the recent contracts made by the Textbook Commission, could those who made contracts enforce the same against the State and, if so, how? And could those who held contracts on December 1, 1922, force the State to take their books, and, if so, how could they force them to do so?

"In view of the fact that this bill is liable to be called up at any time for final passage in the Senate and, in view of the fact that several of the Senators desire the above information before they vote on the bill, I most earnestly request that you give this letter immediate attention and let me have your reply at the very earliest possible moment."

House Bill 168 by Pope, a printed copy of which is enclosed with your letter, proposes to amend Section 23 of Chapter 44 of the General Laws of the First Called Session of the Thirty-fifth Legislature so as to read as follows:

"Sec. 23. The books adopted by the Commission under the provisions of this Act shall be introduced and used as textbooks to the exclusion of all others in public free schools of this State for such period of years as may be determined by the Commission, not to exceed six years in any case; provided nothing in this Act shall be construed to prevent or prohibit the patrons of the public schools throughout the State from procuring books in the usual way in the event that no contracts are made. Provided that said Commission shall not contract for any book of which any member of the nominating committee, or any member of said Commission is, or may be author. Provided that all books in use on December 1, 1922 under contracts in existence on said date or under any extension of such contracts, shall be

continued in use as textbooks to the exclusion of all others in public free schools of this State for a period of three years from and after December 1, 1922. Provided that such textbooks continued in use shall be provided at a price not to exceed contract prices prevailing December 1, 1922."

It will be noted that there are two distinct requirements, both of which are imposed in the latter portion of the section as above quoted, to-wit: (a) What books shall remain in use for a period of three years from and after December 1, 1922; and (b) as to the prices at which such books shall be provided.

The only books that are permitted to be used for a period of three years from and after December 1, 1922, are those in use on December 1, 1922 under contracts in existence on said dates or under any extension of such contracts and such texts must be provided at a price not to exceed contract prices prevailing December 1, 1922.

These requirements would be in direct conflict with new contracts entered into subsequent to December 1, 1922 for any textbooks not in use on December 1, 1922 under a contract in existence on said date or under an extension of such contract, and would prevent the carrying out of any such subsequent contract.

The requirements of this proposed Act would also be in conflict with any contract made subsequent to December 1, 1922, for the same book or books in use on December 1, 1922, under a contract in existence on said date or an extension of such contract, if such subsequent contract stipulated a price exceeding the contract price of any such book prevailing December 1, 1922.

The proposed Act does not purport to compel the remaining in force of the old contracts for the old books, but as above stated, has the effect of requiring the procuring of the old textbooks for use during the above mentioned period of time at the old prices, and has the effect of inhibiting the entering into of any contract for other than the textbooks in use and inhibiting any contract involving prices of such textbooks exceeding the old prices.

Answering your questions, therefore, in the order propounded, you are respectfully advised as follows:

1. If this bill should become law it would have the effect to prevent the carrying out of any of the new contracts which either (a) provide for the furnishing of any textbook not in use on December 1, 1922, under any contract in existence on said date or under an extension of any such contract; or (b) provides for any textbook in use on December 1, 1922, under contracts in existence on said date or under an extension of such contract at a price exceeding the contract price prevailing December 1, 1922.

The bill, if enacted into law, could not have the effect of impairing the obligation of any such new contracts, because the Constitutions, State and Federal, inhibit this; but a State has as much power to breach a contract as an individual has. There is a clear distinction made in all the authorities between impairing the obligation of a contract on the one hand and breaking and refusing to perform a contract on the other. Op. Bk. 52, Atty. Gen. of Texas, page 16, 6 R. C. L., p. 334.

As stated, in the opinion of the Attorney General just referred to:

"It has been repeatedly decided that the passage by the State of a statute purporting to abrogate, or change, a contract previously made by the State, cannot have the effect of impairing the obligation of the contract; and if such abrogation or change is not assented to by the other party, the statute constitutes merely a breach of the contract, giving rise to a claim for damages against the State."

And again in the same opinion:

"A State or county has the same right as an individual to break its contract and, although it has made a contract to do a particular thing, it may abandon it, and in such case the obligation of the contract would not be impaired. The other party would have a just claim against the State for any damages sustained in like manner as if the contract had been between individuals. The fact that the State cannot be sued on its obligations has no bearing on the question."

The new law would have the effect of forcing a breach of the new contracts (assuming the new contracts are for different textbooks or at higher prices) but the obligation of any such contract, if valid, would remain and the other party to the same would have a claim for damages against the State although he might never be able to enforce his claim on account of not being able to sue the State without its consent or on account of the failure of the Legislature to make the necessary appropriation to pay the claim.

2. Answering your second question, beg to advise that if this bill should pass and become a law there would be no authority to contract for textbooks except for the textbooks in use on December 1st, 1922, under contracts in existence on said date or under any extension of such contracts or to contract for such textbooks at a price exceeding the old price and since the opposite parties to the old contracts could not be forced to enter into new contracts upon the same terms or to extend the same under the conditions laid down in the bill, the State would be without any provision for free textbooks for the period of time mentioned in the new bill, beginning with the expiration of present contracts, if the Textbook Board should be unable to make new contracts or extend the old ones upon the terms prescribed in the proposed Act, except to the extent that any of the new contracts are made for the old textbooks and the prices conforming to the conditions of the proposed measure. The writer is not informed as to whether any of the new contracts would meet the requirements of the proposed measure.

3. Our answer to your second question is a sufficient answer to your third.

4. As above indicated the new measure would have the effect of compelling a breach of the new contracts except insofar as any of such contracts may be for old textbooks and at prices conforming to the new bill, but the obligation of such new contracts, if valid, would remain. The book companies would be without power to enforce the performance of these contracts and would be unable to sue the State for damages without its consent. These companies would be without power to force the State to take the books un-

der the new contracts because the State cannot be forced to perform its contracts and cannot be sued without its consent.

It is perhaps needless to add that we have confined our attention and opinion to the legal questions involved, to the exclusion of all other questions or considerations.

Yours very truly,
L. C. SUTTON,

Assistant Attorney General.

The above and foregoing opinion is approved.

JNO. C. WALL,
Acting Attorney General.

TWENTY-SECOND DAY.

Senate Chamber,
Austin, Texas,

Thursday, February 8, 1923.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor T. W. Davidson.

The roll was called, a quorum being present, the following Senators answering to their names:

Bailey.	Murphy.
Baugh.	Parr.
Bledsoe.	Pollard.
Bowers.	Rice.
Burkett.	Ridgeway.
Clark.	Strong.
Cousins.	Stuart.
Darwin.	Thomas.
Davis.	Turner.
Doyle.	Watts.
Fairchild.	Wirtz.
Floyd.	Witt.
Holbrook.	Wood.
Lewis.	Woods.
McMillin.	

Absent—Excused.

Dudley. Rogers.

Prayer by chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Strong.

See Appendix for petitions and committee reports.

Additions to Standing Committees.

Senators Strong and Cousins were added to the Committee on Stock and Stock Raising, on motion of Senator Bowers.

S. B. Nos. 269 and 270—Extra Copies Ordered Printed.

On motion of Senator Murphy, it was ordered that 200 extra copies of Senate bills Nos. 269 and 270 be printed.

S. B. No. 266—Motion to Adopt Committee Report.

Senator Darwin moved that the report of the Committee on Privileges and Elections this morning that S. B. No. 266 be not passed, be adopted.

The Chair ruled that the motion was not in order, because under an unfavorable committee report, the bill could not be considered by the Senate.

Bills and Resolutions.

By Senator Stuart:

S. B. No. 286, A bill to be entitled "An Act creating a Bureau of Plumbing, providing for supervision and enforcement of certain articles as amended; providing for appointment of State Plumbing Inspector, fixing salary and locating office, defining duties and experience, prescribing bond, amount and method of filing, providing record of inspection and investigations shall be kept and annual report made; fixing power of State Health Officer to amend rules and regulations, to revoke license for violations, providing that notice be given within certain time and opportunity afforded to produce testimony providing for appointment of persons for certain purpose; providing that State Health Officer have certain powers, appeal from his decision may be had, after certain period may apply for new license; providing who shall be custodian for papers, that he shall keep on file in his office certain information, and prepare questions and charts for examinations and furnish to local boards of examiners, subject to approval of State Health Officer, providing that certificates be signed and countersigned by whom, license to be recognized by whom and where for certain period, to be renewed when, not transferable, providing penalty for use of license by any other than the one to whom issued license may be granted without examination to whom and by whom upon payment